

**Remarks**

**Rejection of claims 1-24 under 35 U.S.C. § 102 as being anticipated by a publication**

All pending claims 1-24 are rejected as being anticipated by a single, cited publication:  
D.K.T. Tong, Kung-Li Deng, M. Mikkelsen, G. Rabon, K. F. Dryer, J. E. Johnson, 160 Gbit/s  
clock recovery using electroabsorption modulator-based phase-locked loop, *ELECTRONIC  
LETTERS*, Vol. 36, No. 23, Pp. 1951-1952. November 9, 2000.

Accompanying this Response is a Declaration made by the Assignee, under MPEP  
715.04 (D), to swear back of the publication date of the cited reference, under 37 CFR 1.131.

The Declaration includes the following contents:

(1.) Proof that the Inventor, Dennis Tong, can not be reached by a letter sent to his last  
known address, which letter describes proposed contents of the Declaration.

(2.) Proof that an acceptable oath or declaration signed by the Inventor, in compliance  
with 35 U.S.C. §§ 115 and 116, has previously been filed, and is of record.

(3.) An authorization to charge a petition fee, if such a fee is deemed necessary for filing  
the Declaration.

(4.) A statement of the last known address of the Inventor.

(5.) Proof of proprietary interest in the Assignee, by way of an Assignment executed by  
the Inventor, recorded at reel/frame 012398/0753, and a Statement Under 37 C.F.R. 3.73 (b) by  
the Assignee, form PTO/SB/96 (08-00).

(6.) Proof that a filing date of the present application for patent has been granted. The  
Declaration is being submitted to preserve the rights of the party or prevent irreparable damage,  
as provided by MPEP 409.03(g).

Further, accompanying this Response is a Petition to accept a Declaration made by the Assignee to swear back of the cited reference, under 37 CFR 1.131, when it is not possible to produce the affidavit or declaration of the inventor.

Reconsideration of the application is requested in view of the accompanying, Petition for a One-Month Extension of Time, a Declaration made by the Assignee, under MPEP 715.04 (D) and a Petition Accompanying a Declaration Under 37 C.F.R. 1.131 to swear back of the single, cited reference applied against all pending claims 1-24.

The Examiner is invited to telephone the undersigned to discuss any matters that could advance the application to an allowance.

Respectfully submitted,  
Agere Systems Inc.

April 13, 2005  
(Date)

By: Gerald K. Kita  
**Gerald K. Kita**  
Registration No. 24,125

**Customer No. 08933**  
DUANE MORRIS LLP  
One Liberty Place  
Philadelphia, PA 19103-7396  
**Direct Dial: 215-979-1863**  
Facsimile: 215-979-1020  
E-Mail: GKKita@DuaneMorris.com

Enclosures: Petition for a One-Month Extension of Time  
Declaration made by the Assignee, under MPEP 715.04 (D)  
Petition Accompanying a Declaration Under 37 C.F.R. 1.131